



Reprinted
February 20, 2007

HOUSE BILL No. 1306

DIGEST OF HB 1306 (Updated February 19, 2007 4:24 pm - DI 103)

Citations Affected: IC 5-2; IC 12-10; IC 31-36; IC 34-30; IC 35-44; IC 36-2; IC 36-8.

Synopsis: Missing persons. Requires a law enforcement agency that receives a report of a missing person to take certain steps to locate the missing person, and requires a coroner having custody of unidentified human remains to take certain steps to attempt to identify the remains. Requires a commercial mobile radio service (CMRS) provider to disclose to a law enforcement officer the automatic location identification of a subscriber upon request if an emergency situation exists that involves the immediate danger of death or serious bodily injury to any person, including a situation in which there is a credible report of an unexplained missing person. Requires a law enforcement officer to provide a copy of a valid warrant or subpoena to the CMRS provider within 48 hours of receiving the location information. Provides immunity from civil liability for good faith disclosures of information by CMRS providers. Makes other changes.

Effective: July 1, 2007.

Cheatham, Summers, Hinkle, Welch

January 16, 2007, read first time and referred to Committee on Veterans Affairs and Public Safety.

February 15, 2007, amended, reported — Do Pass.

February 19, 2007, read second time, amended, ordered engrossed.

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HB 1306—LS 7062/DI 107+



First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1306

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-17 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]:

4 **Chapter 17. Missing Persons**

5 **Sec. 1. As used in this chapter, "high risk missing person"**
6 **means a person whose whereabouts are not known and who may**
7 **be at risk of injury or death. The term includes the following:**

8 (1) **A person who is missing as the result of abduction by a**
9 **stranger.**

10 (2) **A person whose disappearance may be the result of the**
11 **commission of a crime.**

12 (3) **A person whose disappearance occurred under**
13 **circumstances that are inherently dangerous.**

14 (4) **A person who is missing for more than thirty (30) days.**

15 (5) **A missing person who is in need of medical attention or**
16 **prescription medication.**

17 (6) **A missing person who may be at risk due to abduction by**



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1 a noncustodial parent.

2 (7) A missing person who is mentally impaired.

3 (8) A missing person who is less than twenty-one (21) years of
4 age.

5 (9) A missing person who has previously been the victim of a
6 threat of violence or an act of violence.

7 (10) A missing person who has been determined by a law
8 enforcement agency to be:

9 (A) at risk of injury or death; or

10 (B) a person that meets any of the descriptions in
11 subdivisions (1) through (9).

12 (11) A missing person who is an endangered adult (as defined
13 in IC 12-7-2-131.3).

14 Sec. 2. As used in this chapter, "law enforcement agency" means
15 an agency or a department of any level of government whose
16 principal function is the apprehension of criminal offenders. The
17 term does not include the inspector general or the attorney general.

18 Sec. 3. A law enforcement agency receiving a report of a
19 missing:

20 (1) child less than eighteen (18) years age shall comply with
21 the requirements of IC 31-36-2; or

22 (2) endangered adult (as defined in IC 12-7-2-131.3) shall
23 comply with the requirements of IC 12-10-18;

24 in addition to the procedures described in this chapter.

25 Sec. 4. A law enforcement agency shall accept without delay a
26 report made in person concerning a missing person, including if
27 one (1) or more of the following circumstances apply:

28 (1) The missing person is an adult.

29 (2) It does not appear that the person's disappearance is the
30 result of a crime.

31 (3) The missing person has been missing for only a short time.

32 (4) The missing person has been missing for a long time.

33 (5) It does not appear that the missing person was within the
34 jurisdiction served by the law enforcement agency at the time
35 the person went missing.

36 (6) It appears that the missing person's disappearance may be
37 voluntary.

38 (7) The person reporting the missing person does not have
39 personal knowledge of the facts and circumstances
40 surrounding the disappearance.

41 (8) The person reporting the missing person is unable to
42 provide all the information requested by the law enforcement

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agency.

(9) The person reporting the missing person does not have a familial or other relationship with the missing person.

Sec. 5. A law enforcement agency may accept a missing person report that is not made in person, including a report made by telephone, by electronic mail, by means of the Internet, or in another manner, if accepting the report is otherwise consistent with the practices of the law enforcement agency.

Sec. 6. (a) Upon receipt of a report of a missing person, a law enforcement agency shall attempt to gather relevant information that will assist in locating the missing person. This information must include the following, if available:

- (1) The name of the missing person, including any aliases.
- (2) The date of birth of the missing person.
- (3) Any identifying marks, such as a birthmark, mole, tattoo, or scar.
- (4) The height and weight of the missing person.
- (5) The gender of the missing person.
- (6) The race of the missing person.
- (7) The color of the missing person's hair at the time of the disappearance, and, if applicable, the natural color of the missing person's hair.
- (8) The eye color of the missing person.
- (9) Any prosthetic devices or surgical or cosmetic implants that the missing person may have.
- (10) Any physical anomalies of the missing person.
- (11) The blood type of the missing person.
- (12) The driver's license number of the missing person.
- (13) A recent photograph of the missing person.
- (14) A description of the clothing that the missing person was wearing when last seen.
- (15) A description of any other items, including jewelry or other accessories, that the missing person may have possessed at the time of the disappearance.
- (16) Contact information for the missing person, including electronic mail addresses and cellular telephone numbers.
- (17) Why the person submitting the report believes that the missing person is missing.
- (18) The name and location of the missing person's school or employer.
- (19) The name and location of the missing person's dentist and physician.

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(20) Any reason to believe that the missing person's disappearance was not voluntary.

(21) Any reason to believe that the missing person may be in danger.

(22) A detailed description of the missing person's vehicle.

(23) Information concerning:

(A) the person with whom the missing person was last seen; or

(B) a possible abductor.

(24) The date of last contact with the missing person.

(25) Any other information that will assist in locating the missing person.

(b) A law enforcement agency shall determine as soon as possible after receipt of a report of a missing person whether the missing person is a high risk missing person. If, after a law enforcement agency determines that a missing person is not a high risk missing person, new information suggests that the missing person may be a high risk missing person, the law enforcement agency shall determine whether the person is a high risk missing person.

(c) A law enforcement agency that determines after a diligent investigation that a missing person is either voluntarily missing or not missing may stop the investigation.

(d) A law enforcement agency stopping an investigation under subsection (c) must document the investigative steps and the results of the investigation that led to the conclusion that the person reported missing is either voluntarily missing or not missing.

Sec. 7. Upon receipt of a report of a missing person, a law enforcement agency shall inform the person making the report, a family member of the missing person, and any other person whom the law enforcement agency believes may be helpful in locating the missing person of the following:

(1) The general procedure for handling missing person cases.

(2) The approach the law enforcement agency intends to pursue in the case, if, in the opinion of the law enforcement agency, disclosure would not adversely affect its investigation.

(3) That additional information may be required if the missing person is not promptly located or if additional information is discovered in the course of the investigation. The law enforcement agency shall describe the additional information that may be helpful, if this information is known.

(4) That a DNA sample belonging to the missing person may

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be submitted on a voluntary basis, that it may assist in locating the missing person, and that it will not be used for any other purpose.

(5) That the National Center for Missing and Exploited Children (if the missing person is a child) or the National Center for Missing Adults (if the missing person is an adult) may provide additional resources. The law enforcement agency shall provide contact information for the appropriate organization.

Sec. 8. (a) If a missing person has not been located after thirty (30) days after the date of the missing person report, the law enforcement agency that received the report may obtain, if available, the following information and material:

(1) A DNA sample from the missing person or from family members, and all appropriate documentation and disclosure forms required for the use of the DNA.

(2) An authorization to release dental records or skeletal x-rays of the missing person.

(3) Additional photographs that may assist in locating the missing person.

(4) Dental records of the missing person.

(5) Fingerprints of the missing person.

(b) A law enforcement agency may obtain the information described in subsection (a) even if thirty (30) days have not elapsed from the date of the missing person report.

(c) This section does not permit a law enforcement agency to obtain information or material without a search warrant or another judicial order that would otherwise be required to obtain the information or material.

Sec. 9. (a) A law enforcement agency shall immediately forward DNA samples obtained under section 7(4) or 8 of this chapter to the appropriate laboratory to conduct DNA analysis.

(b) Information that is relevant to the Violent Criminal Apprehension Program operated by the Federal Bureau of Investigation shall be entered as soon as possible.

(c) The law enforcement agency may release to the public any photograph of the missing person that will, in the opinion of the law enforcement agency, assist in the location of the missing person. A law enforcement agency that releases a photograph under this subsection in good faith is not required to obtain written authorization for the release.

Sec. 10. (a) A law enforcement agency (if the law enforcement

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agency is not the state police department) that receives a report of a high risk missing person shall notify the state police department of the high risk missing person and provide the state police department with information that will assist the state police department in locating the high risk missing person.

(b) The state police department shall inform every appropriate law enforcement agency in Indiana of the high risk missing person. In addition, the state police department may notify a law enforcement agency in another state if the state police department believes that the notification will assist in the location of the high risk missing person.

(c) The state police department shall do the following:

(1) Enter information that relates to a missing person report for a high risk missing person into:

(A) the National Crime Information Center (NCIC) data base not more than two (2) hours after the information is received; and

(B) any other appropriate data base not more than one (1) day after the information is received.

(2) Ensure that a person who enters data relating to medical or dental records in a data base has the appropriate training to understand and correctly enter the information. The state police department may consult with a coroner, a pathologist, or another medical professional to ensure the accuracy of the medical or dental information.

(d) A law enforcement agency that receives a report of a high risk missing person under this section shall immediately:

(1) instruct the agency's officers to be alert for the missing person, and a person who may have abducted the missing person, if applicable; and

(2) enter all collected information related to the missing person case into appropriate state or federal data bases, or, if the law enforcement agency is unable to enter the information into the appropriate data bases, forward the collected information to the state police department for entry into the appropriate data base.

SECTION 2. IC 12-10-18-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.5. A missing endangered adult is a high risk missing person under IC 5-2-17. A law enforcement agency receiving a report of a missing juvenile shall follow the procedures in IC 5-2-17 in addition to the procedures described in**

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1 **this chapter.**

2 SECTION 3. IC 31-36-2-0.5 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2007]: **Sec. 0.5. A missing juvenile is a high risk missing person**
5 **under IC 5-2-17. A law enforcement agency receiving a report of**
6 **a missing juvenile shall follow the procedures in IC 5-2-17 in**
7 **addition to the procedures described in this chapter.**

8 SECTION 4. IC 34-30-2-156.5 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2007]: **Sec. 156.5. IC 36-8-16.5-51**
11 **(Concerning commercial mobile radio service providers for**
12 **disclosure of automatic location identification or automatic**
13 **number identification information to a law enforcement officer).**

14 SECTION 5. IC 35-44-2-2, AS AMENDED BY P.L.140-2005,
15 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2007]: Sec. 2. (a) As used in this section, "consumer product"
17 has the meaning set forth in IC 35-45-8-1.

18 (b) As used in this section, "misconduct" means a violation of a
19 departmental rule or procedure of a law enforcement agency.

20 (c) A person who reports, by telephone, telegraph, mail, or other
21 written or oral communication, that:

22 (1) the person or another person has placed or intends to place an
23 explosive, a destructive device, or other destructive substance in
24 a building or transportation facility;

25 (2) there has been or there will be tampering with a consumer
26 product introduced into commerce; or

27 (3) there has been or will be placed or introduced a weapon of
28 mass destruction in a building or a place of assembly;

29 knowing the report to be false commits false reporting, a Class D
30 felony.

31 (d) A person who:

32 (1) gives a false report of the commission of a crime or gives false
33 information in the official investigation of the commission of a
34 crime, knowing the report or information to be false;

35 (2) gives a false alarm of fire to the fire department of a
36 governmental entity, knowing the alarm to be false;

37 (3) makes a false request for ambulance service to an ambulance
38 service provider, knowing the request to be false;

39 (4) gives a false report concerning a missing child (as defined in
40 IC 10-13-5-4) or missing endangered adult (as defined in
41 IC 12-7-2-131.3) or gives false information in the official
42 investigation of a missing child or missing endangered adult

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1 knowing the report or information to be false; or

2 (5) makes a complaint against a law enforcement officer to the
3 state or municipality (as defined in IC 8-1-13-3) that employs the
4 officer:

5 (A) alleging the officer engaged in misconduct while
6 performing the officer's duties; and

7 (B) knowing the complaint to be false; or

8 **(6) makes a false report of a missing person, knowing the**
9 **report or information is false;**

10 commits false informing, a Class B misdemeanor. However, the offense
11 is a Class A misdemeanor if it substantially hinders any law
12 enforcement process or if it results in harm to an innocent person.

13 SECTION 6. IC 36-2-14-12.5 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2007]: **Sec. 12.5. (a) A coroner shall make all**
16 **reasonable attempts to promptly identify human remains,**
17 **including taking the following steps:**

18 (1) Photograph the human remains before an autopsy is
19 conducted.

20 (2) X-ray the human remains.

21 (3) Photograph items found with the human remains.

22 (4) Fingerprint the remains, if possible.

23 (5) Obtain tissue, bone, or hair samples suitable for DNA
24 typing, if possible.

25 (6) Collect any other information relevant to identification
26 efforts.

27 (b) A coroner may not dispose of unidentified human remains
28 or take any other action that will materially affect the condition of
29 the remains until the coroner has taken the steps described in
30 subsection (a).

31 (c) If human remains have not been identified after thirty (30)
32 days, the coroner or other person having custody of the remains
33 shall request the state police to do the following:

34 (1) Enter information that may assist in the identification of
35 the remains into:

36 (A) the National Crime Information Center (NCIC) data
37 base; and

38 (B) any other appropriate data base.

39 (2) Upload relevant DNA profiles from the remains to the
40 missing persons data base of the State DNA Index System
41 (SDIS) and the National DNA Index System (NDIS) after
42 completion of the DNA analysis and other procedures

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required for data base entry.

(3) Ensure that a person who enters data relating to medical or dental records in a data base has the appropriate training to understand and correctly enter the information.

(d) If unidentified human remains are identified as belonging to a missing person, the coroner shall:

(1) notify the law enforcement agency handling the missing persons case that the missing person is deceased; and

(2) instruct the law enforcement agency to make documented efforts to contact family members of the missing person.

(e) No person may order the cremation of unidentified human remains.

SECTION 7. IC 36-8-16.5-51 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 51. (a) This section applies to a CMRS provider that provides CMRS to a subscriber.

(b) A CMRS provider shall disclose a subscriber's automatic location identification and automatic number identification information to a law enforcement officer upon request if an emergency situation exists that involves immediate danger of death or serious bodily injury to any person, including a situation in which there is a credible report of an unexplained missing person. This subsection does not affect the written policy of a CMRS provider concerning the disclosure of a subscriber's automatic location identification or automatic number identification information in a nonemergency situation.

(c) Unless a subscriber executes a consent to the disclosure of the subscriber's automatic location identification or automatic number identification information before a law enforcement officer receives information concerning a subscriber under this section, the law enforcement officer who receives information concerning a subscriber from a CMRS provider under this section shall provide the CMRS provider with a copy of a valid warrant or subpoena authorizing the disclosure of the subscriber's automatic location identification and automatic number identification information not later than forty-eight (48) hours after the law enforcement officer makes the request under subsection (b).

(d) The failure of a law enforcement officer to apply for a warrant or subpoena described in subsection (c) may be punishable by up to one (1) year imprisonment under 18 U.S.C. 3121.

(e) A CMRS provider that discloses information in good faith under subsection (b) is immune from civil liability for disclosing

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1 **the information. This subsection does not apply to acts or omissions**
2 **amounting to gross negligence or willful or wanton misconduct.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred House Bill 1306, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete line 17.

Page 2, delete line 1.

Page 2, line 2, delete "(7)" and insert "(6)".

Page 2, line 4, delete "(8)" and insert "(7)".

Page 2, line 5, delete "(9)" and insert "(8)".

Page 2, line 7, delete "(10)" and insert "(9)".

Page 2, line 9, delete "(11)" and insert "(10)".

Page 2, line 13, delete "(10)." and insert "(9).".

Page 2, line 14, delete "(13)" and insert "(11)".

Page 2, line 23, after "IC 31-36-2;" insert "or".

Page 2, line 28, delete "even" and insert "including".

Page 4, between lines 22 and 23, begin a new paragraph and insert:
"(c) A law enforcement agency that determines after a diligent investigation that a missing person is either voluntarily missing or not missing may stop the investigation.

(d) A law enforcement agency stopping an investigation under subsection (c) must document the investigative steps and the results of the investigation that led to the conclusion that the person reported missing is either voluntarily missing or not missing."

Page 5, line 7, delete "shall" and insert "may".

Page 6, line 1, after "every" insert "appropriate".

Page 6, delete lines 15 through 18.

Page 6, line 19, delete "(3)" and insert "(2)".

Page 6, delete lines 36 through 42.

Page 7, delete lines 1 through 3.

Page 7, between lines 16 and 17, begin a new paragraph and insert:
"SECTION 4. IC 35-44-2-2, AS AMENDED BY P.L.140-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.

(b) As used in this section, "misconduct" means a violation of a departmental rule or procedure of a law enforcement agency.

(c) A person who reports, by telephone, telegraph, mail, or other written or oral communication, that:

(1) the person or another person has placed or intends to place an explosive, a destructive device, or other destructive substance in

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a building or transportation facility;

(2) there has been or there will be tampering with a consumer product introduced into commerce; or

(3) there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly;

knowing the report to be false commits false reporting, a Class D felony.

(d) A person who:

(1) gives a false report of the commission of a crime or gives false information in the official investigation of the commission of a crime, knowing the report or information to be false;

(2) gives a false alarm of fire to the fire department of a governmental entity, knowing the alarm to be false;

(3) makes a false request for ambulance service to an ambulance service provider, knowing the request to be false;

(4) gives a false report concerning a missing child (as defined in IC 10-13-5-4) or missing endangered adult (as defined in IC 12-7-2-131.3) or gives false information in the official investigation of a missing child or missing endangered adult knowing the report or information to be false; or

(5) makes a complaint against a law enforcement officer to the state or municipality (as defined in IC 8-1-13-3) that employs the officer:

(A) alleging the officer engaged in misconduct while performing the officer's duties; and

(B) knowing the complaint to be false; or

(6) makes a false report of a missing person, knowing the report or information is false;

commits false informing, a Class B misdemeanor. However, the offense is a Class A misdemeanor if it substantially hinders any law enforcement process or if it results in harm to an innocent person."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1306 as introduced.)

TINCHER, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1306 be amended to read as follows:

Page 7, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 4. IC 34-30-2-156.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 156.5. IC 36-8-16.5-51 (Concerning commercial mobile radio service providers for disclosure of automatic location identification or automatic number identification information to a law enforcement officer).**".

Page 9, after line 6, begin a new paragraph and insert:

"SECTION 7. IC 36-8-16.5-51 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 51. (a) This section applies to a CMRS provider that provides CMRS to a subscriber.**

(b) A CMRS provider shall disclose a subscriber's automatic location identification and automatic number identification information to a law enforcement officer upon request if an emergency situation exists that involves immediate danger of death or serious bodily injury to any person, including a situation in which there is a credible report of an unexplained missing person. This subsection does not affect the written policy of a CMRS provider concerning the disclosure of a subscriber's automatic location identification or automatic number identification information in a nonemergency situation.

(c) Unless a subscriber executes a consent to the disclosure of the subscriber's automatic location identification or automatic number identification information before a law enforcement officer receives information concerning a subscriber under this section, the law enforcement officer who receives information concerning a subscriber from a CMRS provider under this section shall provide the CMRS provider with a copy of a valid warrant or subpoena authorizing the disclosure of the subscriber's automatic location identification and automatic number identification information not later than forty-eight (48) hours after the law enforcement officer makes the request under subsection (b).

(d) The failure of a law enforcement officer to apply for a warrant or subpoena described in subsection (c) may be punishable by up to one (1) year imprisonment under 18 U.S.C. 3121.

(e) A CMRS provider that discloses information in good faith under subsection (b) is immune from civil liability for disclosing the information. This subsection does not apply to acts or omissions

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amounting to gross negligence or willful or wanton misconduct."

Re-number all SECTIONS consecutively.

(Reference is to HB 1306 as printed February 16, 2007.)

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